

# CREIGHTON LAW REVIEW

## Index to Volume 13 1979-1980 TABLE OF INDEXES

INDEX BY AUTHORS .....	1494
INDEX BY TITLES .....	1498
CASES ANALYZED .....	1503

## INDEX BY AUTHORS

BARNETT, LARRY D., Population Law: A Neglected Field ...	13:1
BLACKMUN, HARRY A., (Eighth Circuit Survey) Introduction .....	13:1057
BLUNK, RICHARD A., (Student Comment) A Review of the Literature on Defensive Tactics to Surprise Cash Tender Offers .....	13:909
BREEN, JEAN M., (Student Note) Constitutional Law— Search and Seizure—Supreme Court Holds Standing to Assert Fourth Amendment Rights Requires Possessory Interest .....	13:653
BUECHLER, GERALD B., JR., (Student Note) Agency—Joint Ventures—Nebraska Supreme Court Refuses to Disturb Jury Determination of a Sharecropping Arrangement As Constituting a Joint Venture .....	13:353
CARRAFIELLO, VINCENT A., Jocks Are People Too: The Constitution Comes to the Locker Room .....	13:843
CLARKE, ALEX M., The Choice to Refuse or Withhold Medical Treatment; The Emerging Technology and Medical-Ethical Consensus .....	13:795
CLIFFORD, JOHN A., (Student Article) Antitrust and Patents .....	13:1160
DAVIS, R. PAUL, Records of Arrest and Conviction: A Comparative Study of Institutional Abuse .....	13:863
EDWARDS, HARRY T., Affirmative Action or Reverse Discrimination: The Head and Tail of <i>Weber</i> .....	13:713
EGAN, BETTY L., (Student Note) Civil Rights— Handicapped Individuals—Rehabilitation Act of 1974 Does Not Require Affirmative Action .....	13:607
EHRHART, DAVID G., (Student Note) Labor Law—Scope of NLRB Remedies—NLRB Cannot Order Release of Confidential Information in the Absence of Adequate Security .....	13:671
EPSTEIN, RICHARD A., Automobile No-Fault Plans: A Second Look at First Principles .....	13:769
FORMANEK, RJEAN K., (Student Survey) United States Supreme Court Adjudication of Eighth Circuit Decisions.....	13:1091

- FRIEDMAN, SANDRA B., (Student Comment) Liability of the Builder-Vendor Under the Implied Warranty of Habitability—Where Does It End? ..... 13:593
- GENTILE, CHARLES R., (Student Comment) The Nebraska Farmer and U.C.C. Section 2-201(2): The Merchant Exception to the Statute of Frauds ..... 13:325
- GILMORE, GRANT, Formalism and the Law of Negotiable Instruments ..... 13:441
- GREEN, J. PATRICK, The Public Plaintiff Comes to Nebraska: An Essay on the Limits of State Judicial Power ..... 13:31
- GREEN, J. PATRICK, (Book Review) Freedman—Crises and Legitimacy: The Administrative Process and American Government ..... 13:1045
- GREENBERG, SARA B., (Student Note) Constitutional Law—Separation of Powers—Congressional Employment Practices Involving Discrimination Are Reviewable by the Courts Under the Fifth Amendment ..... 13:991
- GREENE, SCOTT, Comparison of the Property Aspects of the Community Property and Common-Law Marital Property Systems and Their Relative Compatibility with the Current View of the Marriage Relationship and the Rights of Women ..... 13:71
- HARGENS, WILLIAM F., (Student Note) Torts—Interspousal Immunity—The Impact of Abrogation Of Interspousal Tort Immunity in Nebraska ..... 13:423
- HILL, DENISE A., (Student Survey) Criminal Law ..... 13:1274
- HOWE, DAVID E., (Student Note) Insurance—The Validity of Owned-but-Uninsured Vehicle Exclusions in Uninsured Motorist Coverage ..... 13:403
- LAY, DONALD P., The Eighth Circuit—A Look Ahead ..... 13:1083
- LEE, DENNIS P., (Student Comment) The Constitutionality of the Random Stop of a Motor Vehicle: A Balance Between the Fourth Amendment Rights of the Individual and the Police Powers of the State ..... 13:285
- LEE, GAYLA D., (Student Survey) Securities ..... 13:1436
- LEWIS, GREGORY ALAN, The Legitimate Transfer of Corporate Control: A Paradigmatic Study of the Custodial Concept ..... 13:463

LORENZO, PHILLIP S., (Student Survey) Admiralty .....	13:1155
LOWE, ANN R., (Student Survey) Evidence .....	13:1350
LWIN, VICTORIA C., (Student Survey) Insurance .....	13:1387
MCCORMICK, THOMAS J., (Student Survey) Civil Procedure .....	13:1182
MCDONOUGH, MICHAEL, (Student Comment) Safety in the Workplace: Employee Remedies and Union Liability .	13:995
MCGIVERN, THOMAS M., (Student Survey) Criminal Procedure (Part Two)—Habeas Corpus and the Fourth Amendment .....	13:1299
McKNIGHT, CYNTHIA I., (Student Note) Constitutional Law—Executive Authority—Under the Procurement Act of 1949 the President Has the Implied Authority to Enforce Wage and Price Guidelines .....	13:975
MICHELMAN, FRANK I., Politics and Values or What's Really Wrong With Rationality Review? .....	13:487
NAUGHTIN, ANTHONY C., (Student Survey) Administrative Law .....	13:1128
NIEMANN, NICHOLAS K., (Student Comment) The Effect of the Unrelated Business Income Tax on Today's Hospital .....	13:573
NILSSON, ERIK D., (Student Survey) Constitutional Law ...	13:1248
NILSSON, ERIK D., (Student Survey) Indian Law .....	13:1372
POHL, GEOFFREY V., (Student Comment) Comparative Contribution and Strict Tort Liability: A Proposed Reconciliation .....	13:889
POWERS, MARY T., (Student Comment) The Right to Privacy in Nebraska .....	13:935
RAY, PAULA M., (Student Survey) Civil Rights .....	13:1189
REGAN, THOMAS M., (Student Survey) Commercial Law (Part One)—Uniform Commercial Code and Bankruptcy .....	13:1213
ROSSI, THOMAS A., (Student Comment) The Emasculation of Warrantless Search and Seizure Protections: A Perspective on Nebraska's Fourth Amendment Methodologies .....	13:301
ROSSITER, ROBERT F., JR., (Student Note) Labor Law— Preemption—Supreme Court Approves Unemployment Compensation for the Benefit of Striking Employees ..	13:1005

ROSSITER, ROBERT F., JR., (Student Survey) Torts .....	13:1473
SANBORN, JARISSE J., (Student Note) Property—Mineral Rights—Nebraska Supreme Court Finds Retroactive Statutory Extinguishment of Outstanding Mineral Interests Unconstitutional .....	13:687
SEIDL, PHILLIP D., (Student Survey) Environmental Law ..	13:1327
SEIDL, PHILLIP D., (Student Survey) Oil and Gas .....	13:1429
SHELTON, ROY E., (Student Note) Constitutional Law— Search and Seizure—Permissibility of Surreptitious Entries to Install Electronic Eavesdropping Equipment Under Title III .....	13:633
SHUGRUE, RICHARD E., (Book Review) Woody—Getting Custody .....	13:705
SINGARELLA, MAUREEN A., (Student Survey) Criminal Procedure (Part One)—General Criminal Procedure ..	13:1290
SPELLMAN, ELIZABETH M., (Student Note) Regulated Industries—Federal Communications Commission— Supreme Court Invalidates Regulations Requiring Cable Broadcasters to Provide Public Access .....	13:1023
STEFANI, RICHARD A., (Student Comment) Assumption of Risk and the Automobile Guest: Time to Reevaluate Their Relationship .....	13:251
THOMAS, MARK W., (Student Note) Constitutional Law— Equal Protection—Supreme Court Upholds the Validity of Preferential Treatment of Indians in Land Disputes .....	13:619
VOLKMER, RONALD R., Nebraska Law of Concurrent Ownership .....	13:513
WELLS, ROGER W., (Student Note) Corporations—Outside Directors' Liability for Breach of Fiduciary Duty to Investigate .....	13:383
WECHSLER, BRUCE J., (Student Survey) Commercial Law (Part Two)—Contracts, Banking, and Foreclosures ....	13:1233
WESSEL, DEBORAH M., (Student Survey) Labor Law .....	13:1411
WHITTEN, RALPH U., (Book Review) Ely—Democracy and Distrust .....	13:1479
WIESE, LORI L., (Student Survey) Taxation .....	13:1451

- WILLS, DENNIS L., (Student Comment) Brother-Sister  
Controlled Groups: Tax Court Stands Firm in the  
Face of Reversal ..... 13:543

## INDEX BY TITLE

- Administrative Law (Eighth Circuit Survey), Anthony C.  
Naughtin ..... 13:1128
- Administrative Law—Legislation (Nebraska Survey) ..... 13:125
- Administrative Law—Supreme Court Review (Nebraska  
Survey) ..... 13:122
- Admiralty (Eighth Circuit Survey), Phillip S. Lorenzo .... 13:1155
- Affirmative Action or Reverse Discrimination: The Head  
and Tail of *Weber*, Harry T. Edwards ..... 13:713
- Agency—Joint Ventures—Nebraska Supreme Court  
Refuses to Disturb Jury Determination of a  
Sharecropping Arrangement as Constituting a Joint  
Venture (Student Note), Gerald B. Buechler, Jr. .... 13:353
- Antitrust and Patents (Eighth Circuit Survey), John A.  
Clifford ..... 13:1160
- Assumption of Risk and the Automobile Guest: Time to  
Reevaluate Their Relationship (Student Comment),  
Richard A. Stefani ..... 13:251
- Attorneys-at-Law—Legislation (Nebraska Survey) ..... 13:129
- Attorneys-at-Law—Supreme Court Review (Nebraska  
Survey) ..... 13:127
- Automobile No-Fault Plans: A Second Look at First  
Principles, Richard A. Epstein ..... 13:769
- Brother-Sister Controlled Groups: Tax Court Stands Firm  
in the Face of Reversal (Student Comment), Dennis L.  
Wills ..... 13:543
- The Choice to Refuse or Withhold Medical Treatment: The  
Emerging Technology and Medical-Ethical Consensus,  
Alex M. Clarke ..... 13:795
- Civil Procedure (Eighth Circuit Survey), Thomas J.  
McCormick ..... 13:1182
- Civil Procedure—Legislation (Nebraska Survey) ..... 13:139

Civil Procedure—Supreme Court Review (Nebraska Survey) .....	13:131
Civil Rights (Eighth Circuit Survey), Paula M. Ray .....	13:1189
Civil Rights—Handicapped Individuals—Rehabilitation Act of 1974 Does Not Require Affirmative Action (Student Note), Betty L. Egan .....	13:607
Commercial Law—Legislation (Nebraska Survey) .....	13:156
Commercial Law (Part One)—Uniform Commercial Code and Bankruptcy (Eighth Circuit Survey), Thomas M. Regan .....	13:1213
Commercial Law (Part Two)—Contracts, Banking, and Foreclosures (Eighth Circuit Survey), Bruce J. Wechsler .....	13:1233
Commercial Law—Supreme Court Review (Nebraska Survey) .....	13:144
Comparative Contribution and Strict Tort Liability: A Proposed Reconciliation (Student Comment), Geoffrey V. Pohl .....	13:889
Comparison of the Property Aspects of the Community Property and Common-Law Marital Property Systems and Their Relative Compatibility with the Current View of the Marriage Relationship and the Rights of Women, Scott Greene .....	13:71
Constitutional Law (Eighth Circuit Survey), Erik D. Nilsson .....	13:1248
Constitutional Law—Equal Protection—Supreme Court Upholds the Validity of Preferential Treatment of Indians in Land Disputes (Student Note), Mark W. Thomas .....	13:619
Constitutional Law—Executive Authority—Under the Procurement Act of 1949 the President Has the Implied Authority to Enforce Wage and Price Guidelines (Student Note), Cynthia I. McKnight .....	13:975
Constitutional Law—Legislation (Nebraska Survey) .....	13:162
Constitutional Law—Search and Seizure—Permissibility of Surreptitious Entries to Install Electronic Eavesdropping Equipment Under Title III (Student Note), Roy E. Shelton .....	13:633

Constitutional Law—Search and Seizure—Supreme Court Holds Standing to Assert Fourth Amendment Rights Requires Possessory Interest (Student Note), Jean M. Breen .....	13:653
Constitutional Law—Separation of Powers—Congressional Employment Practices Involving Discrimination Are Reviewable by the Courts Under the Fifth Amendment (Student Note), Sara B. Greenberg .....	13:991
Constitutional Law—Supreme Court Review (Nebraska Survey) .....	13:158
The Constitutionality of the Random Stop of a Motor Vehicle: A Balance Between the Fourth Amendment Rights of the Individual and the Police Powers of the State (Student Comment), Dennis P. Lee .....	13:285
Corporations—Outside Directors' Liability for Breach of Fiduciary Duty to Investigate (Student Note), Roger W. Wells .....	13:383
Criminal Law (Eighth Circuit Survey), Denise A. Hill .....	13:1274
Criminal Law—Legislation (Nebraska Survey) .....	13:183
Criminal Law—Supreme Court Review (Nebraska Survey) .....	13:163
Criminal Procedure (Part One)—General Criminal Procedure (Eighth Circuit Survey), Maureen A. Singarella .....	13:1290
Criminal Procedure (Part Two)—Habeas Corpus and the Fourth Amendment (Eighth Circuit Survey), Thomas M. McGivern .....	13:1299
The Effect of the Unrelated Business Income Tax on Today's Hospital (Student Comment), Nicholas K. Niemann .....	13:573
The Eighth Circuit—A Look Ahead, Donald P. Lay .....	13:1083
Ely—Democracy and Distrust (Book Review), Ralph U. Whitten .....	13:1479
The Emasculation of Warrantless Search and Seizure Protections: A Perspective on Nebraska's Fourth Amendment Methodologies (Student Comment), Thomas A. Rossi .....	13:301
Environmental Law (Eighth Circuit Survey), Phillip D. Seidl .....	13:1327



Equity—Supreme Court Review (Nebraska Survey) .....	13:186
Evidence (Eighth Circuit Survey), Ann R. Lowe .....	13:1350
Evidence—Supreme Court Review (Nebraska Survey) ....	13:188
Family Law—Legislation (Nebraska Survey) .....	13:197
Family Law—Supreme Court Review (Nebraska Survey) .	13:191
Formalism and the Law of Negotiable Instruments, Grant Gilmore .....	13:441
Freedman—Crises and Legitimacy: The Administrative Process and American Government (Book Review), J. Patrick Green .....	13:1045
Indian Law (Eighth Circuit Survey), Erik D. Nilsson .....	13:1372
Insurance (Eighth Circuit Survey), Victoria C. Lwin .....	13:1387
Insurance—Legislation (Nebraska Survey) .....	13:204
Insurance—Supreme Court Review (Nebraska Survey) ...	13:200
Insurance—The Validity of Owned-but-Uninsured Vehicle Exclusions in Uninsured Motorist Coverage (Student Note), David E. Howe .....	13:403
Introduction (Eighth Circuit Survey), Harry A. Blackmun	13:1057
Jocks Are People Too: The Constitution Comes to the Locker Room, Vincent A. Carrafiello .....	13:843
Labor Law (Eighth Circuit Survey), Deborah M. Wessel ..	13:1411
Labor Law—Legislation (Nebraska Survey) .....	13:212
Labor Law—Preemption—Supreme Court Approves Unemployment Compensation for the Benefit of Striking Employees (Student Note), Robert F. Rossiter, Jr. ....	13:1005
Labor Law—Scope of NLRB Remedies—NLRB Cannot Order Release of Confidential Information in the Absence of Adequate Security (Student Note), David E. Ehrhart .....	13:671
Labor Law—Supreme Court Review (Nebraska Survey) ..	13:208
The Legitimate Transfer of Corporate Control: A Paradigmatic Study of the Custodial Concept, Gregory Alan Lewis .....	13:463
Liability of the Builder-Vendor Under the Implied Warranty of Habitability—Where Does It End? (Student Comment), Sandra B. Friedman .....	13:593

Motor Vehicles—Legislation (Nebraska Survey) .....	13:215
Motor Vehicles—Supreme Court Review (Nebraska Survey) .....	13:214
Municipal Corporations—Legislation (Nebraska Survey) ..	13:220
Municipal Corporations—Supreme Court Review (Nebraska Survey) .....	13:217
The Nebraska Farmer and U.C.C. Section 2-201(2): The Merchant Exception to the Statute of Frauds (Student Comment), Charles R. Gentile .....	13:325
Nebraska Law of Concurrent Ownership, Ronald R. Volkmer .....	13:513
Oil and Gas (Eighth Circuit Survey), Phillip D. Seidl .....	13:1429
Politics and Values or What's Really Wrong with Rationality Review?, Frank I. Michelman .....	13:487
Population Law: A Neglected Field, Larry D. Barnett .....	13:1
Property—Legislation (Nebraska Survey) .....	13:228
Property—Mineral Rights—Nebraska Supreme Court Finds Retroactive Statutory Extinguishment of Outstanding Mineral Interests Unconstitutional (Student Note), Jarisse J. Sanborn .....	13:687
Property—Supreme Court Review (Nebraska Survey) ....	13:222
The Public Plaintiff Comes to Nebraska: An Essay on the Limits of State Judicial Power, J. Patrick Green .....	13:31
Records of Arrest and Conviction: A Comparative Study of Institutional Abuse, R. Paul Davis .....	13:863
Regulated Industries—Federal Communications Commission—Supreme Court Invalidates Regulations Requiring Cable Broadcasters to Provide Public Access (Student Note), Elizabeth M. Spellman .....	13:1023
A Review of the Literature on Defensive Tactics to Surprise Cash Tender Offers (Student Comment), Richard A. Blunk .....	13:909
The Right to Privacy in Nebraska (Student Comment), Mary T. Powers .....	13:935
Safety in the Workplace: Employee Remedies and Union Liability (Student Comment), Michael McDonough ...	13:955
Schools—Legislation (Nebraska Survey) .....	13:231

Schools—Supreme Court Review (Nebraska Survey) .....	13:230
Securities (Eighth Circuit Survey), Gayla D. Lee .....	13:1436
Taxation (Eighth Circuit Survey), Lori L. Wiese .....	13:1451
Taxation—Legislation (Nebraska Survey) .....	13:232
Torts (Eighth Circuit Survey), Robert F. Rossiter, Jr. ....	13:1473
Torts—Interspousal Immunity—The Impact of Abrogation of Interspousal Tort Immunity in Nebraska (Student Note), William F. Hargens .....	13:423
Torts—Legislation (Nebraska Survey) .....	13:242
Torts—Supreme Court Review (Nebraska Survey) .....	13:235
Trusts and Wills—Supreme Court Review (Nebraska Survey) .....	13:244
United States Supreme Court Adjudication of Eighth Circuit Decisions (Eighth Circuit Survey), Rjean K. Formanek .....	13:1091
Woody—Getting Custody (Book Review), Richard E. Shrugue .....	13:705
Workmen's Compensation—Legislation (Nebraska Survey) .....	13:250
Workmen's Compensation—Supreme Court Review (Nebraska Survey) .....	13:247

## CASES ANALYZED

<i>AFL-CIO v. Kahn</i> , No. 79-1564 (D.C. Cir. June 22, 1979) ....	13:975
<i>Dalia v. United States</i> , 99 S. Ct. 1682 (1979) .....	13:633
<i>Davis v. Passman</i> , 99 S. Ct. 2264 (1979) .....	13:991
<i>Detroit Edison Co. v. NLRB</i> , 99 S. Ct. 1123 (1979) .....	13:671
<i>Doyle v. Union Insurance Co.</i> , 202 Neb. 599, 277 N.W.2d 36 (1979) .....	13:383
<i>Fangmeyer v. Reinwald</i> , 200 Neb. 120, 263 N.W.2d 428 (1978) .....	13:353
<i>FCC v. Midwest Video Corp.</i> , 99 S. Ct. 1435 (1979) .....	13:1023
<i>Herrick v. Liberty Mutual Fire Insurance Co.</i> , 202 Neb. 116, 274 N.W.2d 147 (1979) .....	13:403
<i>Imig v. March</i> , 203 Neb. 587, 279 N.W.2d 382 (1979) .....	13:423

<i>New York Telephone Co. v. New York State Department of Labor</i> , 99 S. Ct. 1328 (1979) .....	13:1005
<i>Rakas v. Illinois</i> , 439 U.S. 128 (1978) .....	13:653
<i>Southeastern Community College v. Davis</i> , 99 S. Ct. 2361 (1979) .....	13:607
<i>Wheelock v. Heath</i> , 201 Neb. 835, 272 N.W.2d 768 (1978) ....	13:687
<i>Wilson v. Omaha Indian Tribe</i> , 99 S. Ct. 2529 (1979) .....	13:619

### ADDITIONAL ARTICLES AVAILABLE

*The following articles are available for 15¢ per page  
from the Creighton Law Review.*

CONSTITUTIONAL LAW—SOVEREIGN IMMUNITY—SUPREME COURT  
ABROGATES STATE SOVEREIGN IMMUNITY, *Nevada v. Hall*, 99 S. Ct.  
1182 (1979).

CRIMINAL PROCEDURE—SEARCH AND SEIZURE—SUPREME COURT  
REQUIRES PROBABLE CAUSE FOR INVOLUNTARY CUSTODIAL INTER-  
ROGATIONS, *Dunaway v. New York*, 99 S. Ct. 2248 (1979).

